

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICHOLAS MERRILL,

Plaintiff,

v.

No. 14-cv-9763

ERIC HOLDER, Jr., in his official capacity as  
Attorney General of the United States, and  
JAMES B. COMEY, in his official capacity as  
Director of the Federal Bureau of Investigation,

Defendants.

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**UNOPPOSED MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF  
THE PRESS AND 21 MEDIA ORGANIZATIONS FOR LEAVE TO FILE  
*AMICI CURIAE* BRIEF IN SUPPORT OF PLAINTIFF**

Michael D. Steger  
STEGER KRANE LLP  
1601 Broadway, 12th Floor  
New York, NY 10019  
(212) 736-6800  
*Counsel of record for amici curiae*

Bruce D. Brown  
Katie Townsend  
Hannah Bloch-Wehba  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15th Street NW, Ste. 1250  
Washington, D.C. 20005  
(202) 795-9301  
*Of counsel*

The Reporters Committee for Freedom of the Press, American Society of News Editors, Association of Alternative Newsmedia, Association of American Publishers, Inc., Courthouse News Service, Dow Jones & Company, Inc., First Amendment Coalition, Investigative Reporting Workshop at American University, The McClatchy Company, Media Consortium, MediaNews Group, Inc., MPA – The Association of Magazine Media, National Press Photographers Association, Newspaper Association of America, The News Guild - CWA, Online News Association, Radio Television Digital News Association, Reuters America LLC, The Seattle Times Company, Student Press Law Center, Tully Center for Free Speech, and The Washington Post (collectively, “*amici*”), by and through the undersigned counsel, respectfully request permission to file the attached *amici curiae* brief in support of the motion for summary judgment filed by Plaintiff Nicholas Merrill (“Plaintiff”) in the above-captioned action.

All parties consent to the filing of the attached brief.

#### **IDENTITY OF AMICI**

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

With some 500 members, American Society of News Editors (“ASNE”) is an organization that includes directing editors of daily newspapers throughout the Americas. ASNE changed its name in April 2009 to American Society of News Editors and approved broadening its membership to editors of online news providers and academic leaders. Founded in 1922 as American Society of Newspaper Editors, ASNE is active in a number of areas of interest to top

editors with priorities on improving freedom of information, diversity, readership and the credibility of newspapers.

Association of Alternative Newsmedia (“AAN”) is a not-for-profit trade association for 130 alternative newspapers in North America, including weekly papers like The Village Voice and Washington City Paper. AAN newspapers and their websites provide an editorial alternative to the mainstream press. AAN members have a total weekly circulation of seven million and a reach of over 25 million readers.

Association of American Publishers, Inc. (“AAP”) is the national trade association of the U.S. book publishing industry. AAP’s members include most of the major commercial book publishers in the United States, as well as smaller and nonprofit publishers, university presses and scholarly societies. AAP members publish hardcover and paperback books in every field, educational materials for the elementary, secondary, postsecondary and professional markets, scholarly journals, computer software and electronic products and services. AAP represents an industry whose very existence depends upon the free exercise of rights guaranteed by the First Amendment.

Courthouse News Service is a California-based legal news service for lawyers and the news media that focuses on court coverage throughout the nation, reporting on matters raised in trial courts and courts of appeal up to and including the U.S. Supreme Court.

Dow Jones & Company, Inc., a global provider of news and business information, is the publisher of The Wall Street Journal, Barron’s, MarketWatch, Dow Jones Newswires, and other publications. Dow Jones maintains one of the world’s largest newsgathering operations, with more than 1,800 journalists in nearly fifty countries publishing news in several different languages. Dow Jones also provides information services, including Dow Jones Factiva, Dow

Jones Risk & Compliance, and Dow Jones VentureSource. Dow Jones is a News Corporation company.

First Amendment Coalition is a nonprofit public interest organization dedicated to defending free speech, free press and open government rights in order to make government, at all levels, more accountable to the people. The Coalition's mission assumes that government transparency and an informed electorate are essential to a self-governing democracy. To that end, we resist excessive government secrecy (while recognizing the need to protect legitimate state secrets) and censorship of all kinds.

The Investigative Reporting Workshop, a project of the School of Communication (SOC) at American University, is a nonprofit, professional newsroom. The Workshop publishes in-depth stories at [investigativereportingworkshop.org](http://investigativereportingworkshop.org) about government and corporate accountability, ranging widely from the environment and health to national security and the economy.

The McClatchy Company, through its affiliates, is the third-largest newspaper publisher in the United States with 29 daily newspapers and related websites as well as numerous community newspapers and niche publications.

The Media Consortium is a network of the country's leading, progressive, independent media outlets. Our mission is to amplify independent media's voice, increase our collective clout, leverage our current audience and reach new ones.

MediaNews Group's more than 800 multi-platform products reach 61 million Americans each month across 18 states.

MPA – The Association of Magazine Media, ("MPA") is the largest industry association for magazine publishers. The MPA, established in 1919, represents over 175 domestic magazine

media companies with more than 900 magazine titles. The MPA represents the interests of weekly, monthly and quarterly publications that produce titles on topics that cover politics, religion, sports, industry, and virtually every other interest, avocation or pastime enjoyed by Americans. The MPA has a long history of advocating on First Amendment issues.

The National Press Photographers Association (“NPPA”) is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA’s approximately 7,000 members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.

Newspaper Association of America (“NAA”) is a nonprofit organization representing the interests of more than 2,000 newspapers in the United States and Canada. NAA members account for nearly 90% of the daily newspaper circulation in the United States and a wide range of non-daily newspapers. The Association focuses on the major issues that affect today’s newspaper industry, including protecting the ability of the media to provide the public with news and information on matters of public concern.

The News Guild – CWA is a labor organization representing more than 30,000 employees of newspapers, newsmagazines, news services and related media enterprises. Guild representation comprises, in the main, the advertising, business, circulation, editorial, maintenance and related departments of these media outlets. The News Guild is a sector of the Communications Workers of America. CWA is America’s largest communications and media union, representing over 700,000 men and women in both private and public sectors.

Online News Association (“ONA”) is the world’s largest association of online journalists. ONA’s mission is to inspire innovation and excellence among journalists to better serve the public. ONA’s more than 2,000 members include news writers, producers, designers, editors, bloggers, technologists, photographers, academics, students and others who produce news for the Internet or other digital delivery systems. ONA hosts the annual Online News Association conference and administers the Online Journalism Awards. ONA is dedicated to advancing the interests of digital journalists and the public generally by encouraging editorial integrity and independence, journalistic excellence and freedom of expression and access.

Radio Television Digital News Association (“RTDNA”) is the world’s largest and only professional organization devoted exclusively to electronic journalism. RTDNA is made up of news directors, news associates, educators and students in radio, television, cable and electronic media in more than 30 countries. RTDNA is committed to encouraging excellence in the electronic journalism industry and upholding First Amendment freedoms.

Reuters, the world’s largest international news agency, is a leading provider of real-time multi-media news and information services to newspapers, television and cable networks, radio stations and websites around the world. Through Reuters.com, affiliated websites and multiple online and mobile platforms, more than a billion professionals, news organizations and consumers rely on Reuters every day. Its text newswires provide newsrooms with source material and ready-to-publish news stories in twenty languages and, through Reuters Pictures and Video, global video content and up to 1,600 photographs a day covering international news, sports, entertainment, and business. In addition, Reuters publishes authoritative and unbiased market data and intelligence to business and finance consumers, including investment banking and private equity professionals.

The Seattle Times Company, locally owned since 1896, publishes the daily newspaper *The Seattle Times*, together with *The Issaquah Press*, *Yakima Herald-Republic*, *Walla Walla Union-Bulletin*, *Sammamish Review* and *Newcastle-News*, all in Washington state.

Student Press Law Center (“SPLC”) is a nonprofit, nonpartisan organization which, since 1974, has been the nation’s only legal assistance agency devoted exclusively to educating high school and college journalists about the rights and responsibilities embodied in the First Amendment to the Constitution of the United States. SPLC provides free legal assistance, information and educational materials for student journalists on a variety of legal topics.

The Tully Center for Free Speech began in Fall, 2006, at Syracuse University’s S.I. Newhouse School of Public Communications, one of the nation’s premier schools of mass communications.

WP Company LLC (d/b/a The Washington Post) publishes one of the nation’s most prominent daily newspapers, as well as a website, [www.washingtonpost.com](http://www.washingtonpost.com), that is read by an average of more than 20 million unique visitors per month.

### **INTEREST OF AMICI**

As members and representatives of the news media, *amici* have a strong interest in ensuring that willing speakers, like Plaintiff, are not restrained from disseminating information of public interest and concern to the press and to the public. The perspective and arguments of *amici* can assist the Court in ruling on Plaintiff’s motion for summary judgment by providing the Court with additional information and analysis not fully addressed by the parties concerning the First Amendment right of the press and the public to receive information from willing speakers, as well as the heightened importance of the public’s receipt of the specific information that Plaintiff seeks to disclose here.

For these reasons, *amici* respectfully request leave to file the attached brief as *amici curiae* in support of Plaintiff's motion for summary judgment.

DATED: March 18, 2015

Respectfully submitted,

/s/ Michael D. Steger

Michael D. Steger (MS 2009)

STEGER KRANE LLP

1601 Broadway, 12th Floor

New York, NY 10019

(212) 736-6800

msteger@skattorney.com

*Counsel of record*

Bruce Brown

Katie Townsend

Hannah Bloch-Wehba

The Reporters Committee for Freedom of the Press

1156 15th St. NW, Suite 1250

Washington, D.C. 20005

(202) 795-9300

*Of counsel*



**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing motion and the attached brief of *amici curiae* with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system on March 18, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: March 18, 2015

/s/ Michael D. Steger  
Michael D. Steger